

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

UNITED STATES OF AMERICA)
) CRIMINAL ACTION NO.
v.) 2:17cr10-MHT
) (WO)
JEFFERY SCOTT ROBERSON)

OPINION AND ORDER

This cause is before the court on defendant Jeffery Scott Roberson's motion to continue. For the reasons set forth below, the court finds that jury selection and trial, now set for May 15, 2017, should be continued pursuant to 18 U.S.C. § 3161(h)(1).

While the granting of a continuance is left to the sound discretion of the trial judge, United States v. Stitzer, 785 F.2d 1506, 1516 (11th Cir. 1986), the court is limited by the requirements of the Speedy Trial Act, 18 U.S.C. § 3161. The Act provides in part:

"In any case in which a plea of not guilty is entered, the trial of a defendant charged in an information or indictment with the commission of an offense shall commence within seventy days from the filing date (and making public) of the information or indictment, or from the date the defendant has appeared

before a judicial officer of the court in which such charge is pending, whichever date last occurs."

§ 3161(c)(1).

The Act excludes from the 70-day period any continuance based on "findings that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial."

§ 3161(h)(7)(A). The Act also excludes any period of delay "resulting from any pretrial motion, from the filing of the motion through the conclusion of the hearing on, or other prompt disposition of, such motion." 18 U.S.C. § 3161(h)(1)(D).

The court concludes that the ends of justice served by granting a continuance outweigh the interest of the public and Roberson in a speedy trial. Roberson stated in his motion to continue that he intends to file a motion to suppress evidence found in the search of his car, but he could not file such a motion until the government confirmed on April 10, 2017, what evidence existed on the legal basis for

the search. The current May 15 trial date does not provide enough time for Roberson to file a motion to suppress and for the magistrate judge to resolve the motion before trial. A continuance is therefore warranted to enable Roberson to prepare effectively for trial by resolving this evidentiary issue prior to trial.

Accordingly, it is ORDERED as follows:

(1) Defendant Jeffery Scott Roberson's motion for continuance (doc. no. 18) is granted.

(2) The jury selection and trial, now set for May 15, 2017, are reset for September 5, 2017, at 10:00 a.m., in Courtroom 2FMJ of the Frank M. Johnson Jr. United States Courthouse Complex, One Church Street, Montgomery, Alabama.

DONE, this the 11th day of April, 2017.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE